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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/494,877	01/31/2000	Zhigang Fang	34098/GTL/S61	4072
59826	7590	03/31/2006	EXAMINER	
SMITH INTERNATIONAL PATENT APPLICATIONS JEFFER, MANGELS, BUTLER & MARMARO LLP 1900 AVENUE OF THE STARS SEVENTH FLOOR LOS ANGELES, CA 90067			JENKINS, DANIEL J	
		ART UNIT		PAPER NUMBER
				1742
DATE MAILED: 03/31/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/494,877	FANG ET AL.	
	Examiner	Art Unit	
	Daniel J. Jenkins	1742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 13 January 2006.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-5,7,10-21,25-27,29,32-34,37 and 40-44 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-5,7,10-21,25-27,29,32-34,37 and 40-44 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

1. The Examiner has carefully considered Applicant's Response of 1/13/06. The Examiner does not find Applicant's argument persuasive. In particular, the Examiner finds that no showing has been made that the binder of Heinrich et al. does not possess the characteristics as claimed. In particular, the assumption that a material of substantially the same and overlapping composition would inherently possess the characteristics of a the same or substantially similar composition has not been overcome. Additionally, the reasoning for adding the elements added by the secondary reference to Fujita et al. as stated in the rejection is maintained, the Examiner finding that the arts are analogous, composite materials, and open to one of ordinary skill in looking for binder material teachings.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-5, 7, 10-21, 25-27, 29, 32-34, 37 and 40-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heinrich et al. in view of Fujita et al. '696 (Fujita et al.).
Heinrich et al. discloses the invention substantially as claimed. Heinrich et al. discloses at col. 2, lines 1-5, a cermet comprising:
 - a WC hard phase in an amount of 81-95%; and
 - a Co-Ni-Fe binder phase in an amount of 5-19%.

Heinrich et al. further discloses at col. 2, lines 13-21, wherein the binder phase comprises about :

40-90% Co;

4-36% Ni; and

4-36% % Fe (see col. 4, lines 9-10).

However, Heinrich et al. is silent as to the addition of Mn and C, but teaches that additional alloying elements can be included in the binder (col. 3, lines 53).

Fujita et al. teaches in the same field of endeavor at col. 2, lines 40-43, to add Mn to binder metals including Fe, Co and Ni in order to improve the sinterability of the matrix. It would have been obvious to add Mn as taught by Fujita et al. to the binder of Heinrich et al. as taught by Fujita et al. in order to improve the sinterability of the matrix.

Fufita et al. further teaches in the same field of endeavor at col. 2, lines 7-29, to add C to the binder in order to improve the toughness of the binder.

It would have been obvious to add C to the binder of Heinrich et al. as taught by Fujita et al. in order to improve the toughness of the binder.

Heinrich et al. thus discloses constituent amounts which overlap those as claimed by Applicant which would inherently result in an coefficient of thermal expansion range which would overlap that as claimed by Applicant, establishing a *prima facie* case of obviousness. The Examiner asserts that where the claimed and prior art products are identical or substantially identical in structure or composition, or are produced by identical or substantially identical processes, a *prima facie* case of either anticipation or obviousness has been established. *In re Best*, 562 F.2d 1252, 1255, 195 USPQ 430,

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433 (CCPA 1977). "When the PTO shows a sound basis for believing that the products of the applicant and the prior art are the same, the applicant has the burden of showing that they are not." *In re Spada*, 911 F.2d 705, 709, 15 USPQ2d 1655, 1658 (Fed. Cir. 1990).

4. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J. Jenkins whose telephone number is 571-272-1242. The examiner can normally be reached on M-TH6:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on 571-272-1242. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Daniel J. Jenkins
Primary Examiner
Art Unit 1742

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